

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS

In re application of	)	
Robert L. Lundak	)	Examiner: J. Tarcza
Serial No. 247,656	)	Art Unit: 172
Filed: March 26, 1981	)	
For: HIGH FUSION FREQUENCY	)	DECLARATION OF
FUSIBLE LYMPHOBLASTOID	)	<u>BOBBIE A. BRANDON</u>
CELL LINE	)	

San Francisco, CA 94105

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

RECEIVED

SEP 17 1984

Sir:

I, Bobbie A. Brandon, do hereby declare as follows: **BOARD OF APPEALS**

I am the Head of the patent depository at the A.T.C.C. and oversee the receipt, maintenance and correspondence associated with the deposit of biological materials for patent purposes.

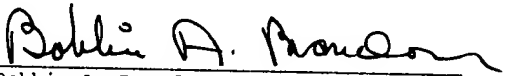
As evidenced by my records, on April 2, 1981, I received ampules described as human lymphoblastoid B-cell line WI-L2-729 HF<sub>2</sub> from Dr. Robert Lundak which was deposited for patent purposes for U.S. filing and I was authorized to maintain the deposit for twenty years from the date of receipt. In accordance with our practice, for deposits solely for United States' filings, the contents of the ampules were not investigated for viability. This was and is our practice. Nor do we attempt to characterize the contents of the ampules to establish that they correspond to the description of the biological material provided us. Nor

do we normally receive copies of portions of the patent application filed in the United States to which the biological material corresponds, whereby it might be feasible to compare the description in the patent application to the characteristics of the biological material which is deposited.

Subsequently, I received a letter of February 24, 1982, authorizing that the human lymphoblastoid B-cell line WI-L2-729 HF<sub>2</sub> (A.T.C.C. No. CRL 8062) should be retained in accordance with European Patent Convention, so that it would be maintained for thirty years from the date of deposit and not less than five years from the last request and on March 2, 1982 I responded to the request indicating that the subject cell line would be retained in accordance with European requirements. As of this date, the subject cell line is being retained and will continue to be retained in accordance with these requirements, all fees having been paid.

The undersigned declarant further declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date September 5, 1984

  
Bobbie A. Brandon

February 24, 1982

American Type Culture Collection  
12301 Park Lawn Drive  
Rockville, Maryland 20852

Attention: Ms. Bobbie Brandon

High Fusion Frequency Fusible Lymphoblastoid  
Cell Line - Our File: 2307U-107(UC 205-80)

Dear Ms. Brandon:

Please change the form of deposit for patent purposes of W1-L2-729 HF<sub>2</sub> human lymphoblastoid B-cell line (ATCC CRL 8062) to deposit for foreign patent purposes, extending the period to 30 years and on the following terms and conditions.

The deposit shall be available upon request to any person from the date of publication of the European patent application (September 26, 1982) and to any person having the right to inspect the files under the provisions of Article 128, paragraph 2, prior to that date. Such availability shall be effected by issue of a sample of the microorganism to the person making the request ("Requester"). Said issue shall be made only if the Requester has undertaken the following:

(a) not to make the deposited culture or any culture derived therefrom available to any third party before the application has been refused or withdrawn or is deemed to be withdrawn, or if a patent is granted before the expiry of the patent in the designated State in which it last expired;

American Type Culture Collection

Page 2

February 24, 1982

(b) to use the deposited culture or any culture derived therefrom for experimental purposes only, until such time that the patent application is refused or withdrawn or is deemed to be withdrawn, or up to the date of publication of the mention of the grant of the European patent. This provision shall not apply insofar as the Requester is using the culture under a compulsory license. The term "compulsory license" shall be construed as including ex officio licenses and the right to use patented inventions in the public interest.

The above requirements are in accord with European Patent Office regulations. If there are other pertinent regulations, they are to be controlling.

If any further fee is required, please send such bills in accordance with our letter of April 8, 1981. The accession number was given in your letter of April 26, 1981.

Thank you very much for your attention to this matter.

Very truly yours,

TOWNSEND and TOWNSEND

Bertram I. Rowland

BIR/gss

cc Irene S. Croft



# American Type Culture Collection

12301 Parklawn Drive, Rockville, Maryland 20852 USA 301-881-2600 Telex ATCCROVE 908-768

Since 1925  
an independent non-profit  
organization incorporated in  
Washington, D.C. and devoted to  
the preservation of reference  
cultures and their distribution to  
the scientific community

March 2, 1982

Mr. Bertram I. Rowland, Esq.  
Townsend and Townsend  
Five Palo Alto Square  
3000 El Camino Real  
Palo Alto, California 94304

**AFFILIATED  
ORGANIZATIONS:**

American Association  
of Immunologists

American Institute  
of Biological Sciences

American Phytopathological  
Society

American Society  
of Biological Chemists

American Society  
for Cell Biology

American Society  
for Microbiology

American Society  
of Parasitologists

American Society  
of Zoologists

American Society  
of Tropical Medicine and Hygiene

Genetics Society  
of America

Infectious Diseases Society  
of America

Mycological Society  
of America

National Research Council-  
National Academy of Sciences

Society  
of Protozoologists

Tissue Culture Association

Dear Mr. Rowland:

Your File: 2307U-107 (UC 205-80)

This will confirm that we have extended the period of maintenance of W1-L2-729 HF<sub>2</sub> human lymphoblastoid B-cell line (ATCC CRL 8062) until at least April 2, 2011, and under the terms stated in your letter of February 24, 1982 in connection with the European Patent Office.

An invoice for \$490.000 to cover these services will be sent to you under separate cover.

Very sincerely,

(Mrs.) Bobbie A. Brandon, Head  
Professional Services Department

bmh

cc: Ms. Kathy Krause  
Townsend and Townsend  
20th Floor - Steuart Street Tower  
One Market Plaza  
San Francisco, California 94105